

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STEELE & COMPANY,

CASE NO. 2:16-CV-11586

Plaintiff,

v.

DISTRICT JUDGE MARK A. GOLDSMITH
MAGISTRATE JUDGE PATRICIA MORRIS

IDAHO BEAN & ELEVATOR COMPANY,

Defendant.

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REPORT AND RECOMMENDATION RECOMMENDING
ENTRY OF A DEFAULT JUDGMENT

I. INTRODUCTION

The present case is a breach of contract case wherein Plaintiff alleges that it sold a quantity of red beans to Defendant and that Defendant has failed to pay the full purchase price for the red beans. (Am. Compl., Doc. 12.) District Judge Goldsmith referred other pretrial matters, i.e., a settlement conference, to the undersigned. (Doc. 18.) On the eve of the settlement conference, defense counsel filed a motion for withdrawal and on the next morning, filed a motion to adjourn the settlement conference. (Docs. 20, 21.) The undersigned granted the motion to adjourn and the motion to withdraw. (Doc. 23.)

II. LAW and ANALYSIS

In the order granting the motion to withdraw, the Court also stated:

[O]nce defense counsel withdraws, Defendant company will be left without representation. "It has been the law for the better part of two centuries...that a corporation may appear in the federal courts only through licensed counsel. As the courts have recognized, the rationale for that rule

applies equally to all artificial entities.” *Rowland v. Calif. Men’s Colony, Unit II Men’s Advisory Council*, 506 U.S. 194, 201-02 (1993). Accordingly, Defendant must retain counsel and counsel must appear for Defendant as soon as possible. If an attorney does not file an appearance for Defendant **on or before January 6, 2017**, the Court may enter a default judgment against Defendant for its failure to obtain counsel. *Barnett v AS&I, LLC*, No. 3:13-CV-2464-BN, 2014 WL 1641905, at *1-2 (N.D. Texas Apr. 24, 2014)(citing cases approving default judgment as the “appropriate remedy when a corporation fails, after court warning, to appoint counsel.”)

(Doc. 23 at 2.) To date, no appearance has been filed on behalf of Defendant nor has Defendant communicated with the Court in any way seeking either an extension of time or otherwise indicating an intent to secure proper representation.

Accordingly, it is recommended that a default judgment be entered against Defendant.

III. REVIEW

Rule 72(b)(2) of the Federal Rules of Civil Procedure states that “[w]ithin 14 days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. A party may respond to another party’s objections within 14 days after being served with a copy.” Fed. R. Civ. P. 72(b)(2); *see also* 28 U.S.C. § 636(b)(1). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140, 155; *Howard v. Sec’y of Health & Human Servs.*, 932 F.2d 505, 508 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947, 950 (6th Cir. 1981). The parties are advised that making some objections, but failing to raise others, will not preserve all the objections a party may have to this Report and Recommendation. *Willis v. Sec’y of Health & Human Servs.*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed’n of Teachers Local 231*, 829

F.2d 1370, 1373 (6th Cir. 1987). According to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this magistrate judge.

Any objections must be labeled as “Objection No. 1,” “Objection No. 2,” etc. Any objection must recite precisely the provision of this Report and Recommendation to which it pertains. Not later than 14 days after service of an objection, the opposing party may file a concise response proportionate to the objections in length and complexity. Fed. R. Civ. P. 72(b)(2); E.D. Mich. LR 72.1(d). The response must specifically address each issue raised in the objections, in the same order, and labeled as “Response to Objection No. 1,” “Response to Objection No. 2,” etc. If the Court determines that any objections are without merit, it may rule without awaiting the response.

Date: January 9, 2017

S/ PATRICIA T. MORRIS

Patricia T. Morris

United States Magistrate Judge

CERTIFICATION

I hereby certify that the foregoing document was electronically filed this date through the Court’s CM/ECF system which delivers a copy to all counsel of record.

Date: January 9, 2017

By s/Kristen Castaneda
Case Manager